

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA,

v.

TRADON MARQUEZ DRAYTON,

Defendant.

Case No. 1:04CR00009-001

OPINION

By: James P. Jones
United States District Judge

Tradon Marquez Drayton, Pro Se Defendant.

The defendant has submitted a “Motion to Dismiss the Indictment” (ECF No. 624), alleging among other things that the Indictment fails to state an offense for which he could be prosecuted. Based on the nature of the defendant’s allegations, I construed the submission as a Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. I will now dismiss it as successive.

Court records reflect that the defendant has already litigated a § 2255 motion challenging the same Judgment. *United States v. Drayton*, No. 1:04CR00009, 2010 WL 4136144 (W.D. Va. Oct. 21, 2010), *appeal dismissed*, 415 F. App’x 490 (4th Cir. 2011) (unpublished). This court may consider a second or successive § 2255 motion only upon specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the motion meet certain criteria involving newly discovered evidence or a new rule of constitutional law. *See*

§ 2255(h). Because the defendant has previously pursued relief under § 2255 and offers no indication that he has obtained certification from the court of appeals to file a second or successive § 2255 motion, I must deny his current motion without prejudice as successive.

A separate Final Order will be entered herewith.

DATED: May 23, 2016

/s/ James P. Jones
United States District Judge